

HOUSE BILL No. 1157

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-12-43.

Synopsis: Residential real estate closing forms. Resolves the conflict affecting IC 6-1.1-12-43 (concerning the duty of a closing agent to provide the customer a certain form and to input certain information in connection with a single family residential mortgage transaction) that arose when IC 6-1.1-12-43 was amended in different ways by P.L.146-2008 and P.L.145-2008. (The introduced version of this bill was prepared by the code revision commission.)

Effective: Upon passage.

VanDenburgh, Behning, Foley

January 12, 2009, read first time and referred to Committee on Government and Regulatory Reform.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1157

A BILL FOR AN ACT to amend the Indiana Code concerning general provisions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-12-43, AS AMENDED BY P.L.145-2008,
2 SECTION 9, AND AS AMENDED BY P.L.146-2008, SECTION 120,
3 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE UPON PASSAGE]: Sec. 43. (a) For purposes of this
5 section:

6 (1) "benefit" refers to

7 ~~(A)~~ a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26, 29,
8 31, 33, or 34 of this chapter; ~~or~~

9 ~~(B) the homestead credit under IC 6-1.1-20.9-2;~~

10 (2) "closing agent" means a person that closes a transaction;

11 (3) "customer" means an individual who obtains a loan in a
12 transaction; and

13 (4) "transaction" means a single family residential:

14 (A) first lien purchase money mortgage transaction; or

15 (B) refinancing transaction.

16 (b) Before closing a transaction after December 31, 2004, a closing
17 agent must provide to the customer the form referred to in subsection

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(c).

(c) Before June 1, 2004, the department of local government finance shall prescribe the form to be provided by closing agents to customers under subsection (b). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit;

(B) list the eligibility criteria for each benefit; and

(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;

(2) on the other side indicate:

(A) each action by; and

(B) each type of documentation from;

the customer required to file for each benefit; and

(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing referred to in subsection (b).

(d) A closing agent:

(1) may reproduce the form referred to in subsection (c);

(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and

(3) is not responsible for the content of the form referred to in subsection (c) and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) *This subsection applies to a transaction that is closed after December 31, 2009. In addition to providing the customer the form described in subsection (c) before closing the transaction, a closing agent shall do the following as soon as possible after the closing, and within the time prescribed by the department of insurance under IC 27-7-3-15.5:*

(1) *To the extent determinable, input the information described in IC 27-7-3-15.5(c)(2) into the system maintained by the department of insurance under IC 27-7-3-15.5.*

(2) *Submit the form described in IC 27-7-3-15.5(c) to the data base described in IC 27-7-3-15.5(c)(2)(D).*

~~(e)~~ (f) A closing agent to which this section applies shall document

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1 *its the closing agent's* compliance with this section with respect to each
 2 transaction in the form of verification of compliance signed by the
 3 customer.

4 ~~ff~~ (g) *Subject to IC 27-7-3-15.5(d)*, a closing agent is subject to a
 5 civil penalty of twenty-five dollars (\$25) for each instance in which the
 6 closing agent fails to comply with this section with respect to a
 7 customer. The penalty:

8 (1) may be enforced by the state agency that has administrative
 9 jurisdiction over the closing agent in the same manner that the
 10 agency enforces the payment of fees or other penalties payable to
 11 the agency; and

12 (2) shall be paid into:

13 (A) the ~~property tax replacement~~ state general fund, if the
 14 closing agent fails to comply with subsection (b); or

15 (B) the home ownership education account established by
 16 IC 5-20-1-27, if the closing agent fails to comply with
 17 subsection (e) in a transaction that is closed after December
 18 31, 2009.

19 (h) A closing agent is not liable for any other damages claimed by
 20 a customer because of:

21 (1) the closing agent's mere failure to provide the appropriate
 22 document to the customer *under subsection (b)*; or

23 (2) *with respect to a transaction that is closed after December 31,*
 24 *2009, the closing agent's failure to input the information or*
 25 *submit the form described in subsection (e).*

26 ~~fg~~ (i) The state agency that has administrative jurisdiction over a
 27 closing agent shall:

28 (1) examine the closing agent to determine compliance with this
 29 section; and

30 (2) impose and collect penalties under subsection ~~ff~~ (g).

31 **SECTION 2. An emergency is declared for this act.**

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